

FILED

DEC 12 2012

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
JAYNE KIM, No. 174614
CHIEF TRIAL COUNSEL
JOSEPH R. CARLUCCI, No. 172309
DEPUTY CHIEF TRIAL COUNSEL
SUSAN I. KAGAN, No. 214209
ASSISTANT CHIEF TRIAL COUNSEL
SUSAN CHAN, No. 233229
SENIOR TRIAL COUNSEL
SUZAN J. ANDERSON, No. 160559
SENIOR TRIAL COUNSEL
180 Howard Street
San Francisco, California 94105-1639
Telephone: (415) 538-2209

STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of:

) Case No. 12-O-16562

RODNEY KENT WORREL,
No. 51857,

) NOTICE OF DISCIPLINARY CHARGES

A Member of the State Bar

**NOTICE - FAILURE TO RESPOND!**

**IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE
WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT
THE STATE BAR COURT TRIAL:**

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

1 The State Bar of California alleges:

2 JURISDICTION

3 1. RODNEY KENT WORREL ("Respondent") was admitted to the practice of law in
4 the State of California on January 5, 1972, was a member at all times pertinent to these charges,
5 and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 12-O-16562
8 Rules of Professional Conduct, rule 3-110(A)
[Failure to Perform with Competence]

9 2. Respondent wilfully violated Rules of Professional Conduct, rule 3-110(A), by
10 intentionally, recklessly, or repeatedly failing to perform legal services with competence, as
11 follows:

12 3. On or about April 4, 2011, George Kutnerian on behalf of Apollo Prep, LLC
13 ("Kutnerian"), employed Respondent to file a patent application. On that date, Kutnerian paid
14 Respondent \$8,000 in advanced legal fees.

15 4. In or about January 2012, Kutnerian telephoned Respondent to inquire about the
16 status of the patent application. Respondent informed Kutnerian that he would have the patent
17 application completed within two months.

18 5. In or about March 2012, Kutnerian telephoned Respondent to again inquire about the
19 status of the patent application. Respondent informed Kutnerian that he would have the patent
20 application completed in one more month.

21 6. In or about April 2012, Kutnerian telephoned Respondent to again inquire about the
22 status of the patent application. Respondent informed Kutnerian that he would have the patent
23 application completed by the end of May 2012.

24 7. In or about May 2012, when Kutnerian telephoned Respondent regarding the status of
25 the patent application, Respondent informed Kutnerian that he would have it completed by the
26 end of June.

1 8. At no time did Respondent provide any services to Kutnerian with respect to the
2 patent application, or complete the patent application.

3 9. On or about July 24, 2012, Kutnerian sent a letter by Federal Express to Respondent
4 at Respondent's membership records address, informing Respondent that he was terminating
5 Respondent's services and requesting a refund of the \$8,000 he had paid in advanced attorney
6 fees. Respondent received the letter.

7 10. By not taking any steps to pursue the patent application on behalf of Apollo Prep,
8 LLC., including not completing or filing the patent application, Respondent intentionally,
9 recklessly, or repeatedly failed to perform legal services with competence.

10 COUNT TWO

11 Case No. 12-O-16562
12 Rules of Professional Conduct, rule 3-700(D)(2)
[Failure to Refund Unearned Fees]

13 11. Respondent wilfully violated Rules of Professional Conduct, rule 3-700(D)(2), by
14 failing to refund promptly any part of a fee paid in advance that has not been earned, as follows:

15 12. The allegations of Count One are incorporated by reference herein.

16 13. Kutnerian terminated Respondent's services on or about July 24, 2012.

17 14. Respondent did not perform any services of value for Kutnerian. As of July 24,
18 2012, Respondent had not earned any portion of the advanced fees paid by Kutnerian.

19 15. To date, Respondent has not refunded any portion of the \$8,000 paid by Kutnerian in
20 advanced attorney fees.

21 16. By not refunding any portion of the \$8,000 in advanced attorney fees paid by
22 Kutnerian, Respondent failed to refund promptly any part of a fee paid in advance that has not
23 been earned.

24 ///

25 ///

26 ///

27 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Case No. 12-O-16562
Business and Professions Code, section 6068(m)
[Failure to Respond to Client Inquiries]

17. Respondent wilfully violated Business and Professions Code, section 6068(m), by failing to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services, as follows:

19. Between in or about July 5, 2012, and July 24, 2012, Kutnerian called and left at least four voicemail messages for Respondent, requesting the status of the patent application. Respondent received the voicemail messages.

21. By failing to respond to Kutnerian's telephone messages regarding the status of the patent application, Respondent failed to respond promptly to reasonable status inquiries of a client in a matter in which Respondent had agreed to provide legal services.

17
18
19
20
21
22
23
24
25
26
27
28

22. Respondent wilfully violated Business and Professions Code, section 6068(i), by failing to cooperate and participate in a disciplinary investigation pending against Respondent, as follows:

24. On or about September 10, 2012, the State Bar opened an investigation, Case Number 12-O-16562, pursuant to a complaint made by Kutnerian against Respondent.

26
27
28

1 to those allegations. The letters were placed in sealed envelopes and properly mailed to
2 Respondent's official membership address of record. Respondent received the letters.

3 26. To date, Respondent has failed to cooperate in any manner in this investigation and
4 failed to provide a written response to any of the State Bar's letters requesting that he respond to
5 the allegations of misconduct being investigated by the State Bar in the Kutnerian matter.

6 27. By failing to provide a written response to the allegations in the Kutnerian matter or
7 otherwise cooperating in the investigation of the Kutnerian matter, Respondent failed to
8 cooperate and participate in a disciplinary investigation pending against Respondent.

9
10 **NOTICE - INACTIVE ENROLLMENT!**

11 **YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR**
12 **COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE**
13 **SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL**
14 **THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO**
15 **THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN**
16 **INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE**
17 **ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE**
18 **RECOMMENDED BY THE COURT.**

19
20 **NOTICE - COST ASSESSMENT!**

21 **IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC**
22 **DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS**
23 **INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING**
24 **AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND**
25 **PROFESSIONS CODE SECTION 6086.10.**

26 Respectfully submitted,

27 THE STATE BAR OF CALIFORNIA
28 OFFICE OF THE CHIEF TRIAL COUNSEL

29 DATED: December 12, 2012

By: 

SUZAN J. ANDERSON
Senior Trial Counsel

DECLARATION OF SERVICE

by
U.S. CERTIFIED MAIL and U.S. FIRST-CLASS MAIL

CASE NUMBER(s): **12-O-16562**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES



By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco.



By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))



By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ("UPS").



By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.



By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.



(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at San Francisco, addressed to: *(see below)*



(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,
Article No.: 7196 9008 9111 6623 1156 at San Francisco, addressed to: *(see below)*



(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,
Tracking No.: addressed to: *(see below)*

Person Served	Business-Residential Address	Fax Number	Courtesy Copy via First Class mail to:
Rodney K. Worrel	Worrel & Worrel 2109 W Bullard #121 Fresno, California 93711-1258 <i>(Via U.S. Mail and Certified Mail/RRR)</i>	<div>Electronic Address</div>	Rodney K. Worrel c/o Mark D. Magness, Esq. Gilmore, Wood, Vinnard & Magness, P.C. 10 Riverpark Place East, Suite 240 Fresno, California 93720



via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS"). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: December 12, 2012

SIGNED:

Heather Fox
Heather Fox
Declarant